

IN THE UNITED STATES DISTRICT COURT
OF THE WESTERN DISTRICT OF OKLAHOMA

XEROX CORPORATION,)
)
 Plaintiff,)
)
 vs.) Case No.:
)
 OTOE MISSOURIA TRIBE OF)
 INDIANS, d/b/a)
 7-CLANS PARADISE CASINO,)
)
 Defendant.)

COMPLAINT

COMES NOW Xerox Corporation and for its action against the Otoe Missouria Tribe of Indians, d/b/a 7-Clans Paradise Casino, alleges and states:

I. JURISDICTION

1. Xerox Corporation ("Xerox") is a New York Corporation with its principal place of business in Rochester, New York.
2. The Otoe Missouria Tribe of Indians (the "Tribe") does business in Oklahoma, including the operation of a gambling casino in Noble County, Oklahoma.
3. Jurisdiction lies in this Court by virtue of diversity, 18 U.S.C. 1331, because the parties are citizens of different states and the amount in controversy exceeds \$75,000.

II. THE LEASE AGREEMENTS

4. The Tribe entered into two lease agreements with Xerox for the lease of photocopying equipment. (the "Lease Agreements") for use in the Tribe's gambling casino business:

a. February 12, 2004 Lease for a DC425ASC Copier, serial number EYF013158, (the "DC4 Lease"), for a five year term ending March 30, 2009, requiring monthly payments of a \$245.00 base charge plus applicable taxes as well as meter usage charges. (Ex. 1)

b. June 30, 2006 Lease for two WCP265HC Copiers (the "WCP Lease"), for a five-year term ending July 30, 2011, requiring monthly payments of a \$1,846.87 base charge plus applicable taxes as well as meter usage charges. (Ex. 2)

III. THE TRIBE'S BREACH OF THE LEASE AGREEMENTS

5. Xerox fully performed its obligations under the Lease Agreements. Affidavit of Charles Corrigan, ¶ 8. (Ex. 3)

6. The Tribe caused an event of default under the Lease Agreements in that the Tribe has refused to make all required payments pursuant to the terms of the Lease Agreements. Corrigan Aff. at ¶ 11.

7. The occurrence of one or more events of default triggers the "Breach and Remedies" provisions of the Lease Agreement. Acceleration of the Tribe's obligations under the Lease Agreement occurred on December 31, 2007. (Letter of Laura Barrera of December 31, 2007) (Ex. 4)

8. As of the date of filing of this Petition, after credit for payments and other offsets, the principal accelerated balance due under the Lease Agreement is:

a.	February 12, 2004 DC4 Lease:	\$5,557.66
b.	June 30, 2006 WCP Lease:	\$94,172.90
	TOTAL:	\$99,730.56

Corrigan Aff. at ¶ 13.

9. In addition to the principal accelerated balance, the "Breach and Remedies" Section of the Lease Agreement assesses a monthly interest charge, calculated from the dates of contractual default and acceleration, of 1.5%. (Ex. 3 at ¶ 13) Total contractual interest for this principal accelerated balance under the Lease Agreements through January 31, 2008, is \$2,094.12. Corrigan Aff. at ¶ 14.

10. Xerox requests to post-judgment interest, a reasonable attorney's fee, and other costs of collection as provided by the terms of the Lease Agreements and pursuant to OKLA. STAT. tit. 12, § 936.

IV. CAUSE OF ACTION – BREACH OF CONTRACT

11. The Tribe breached the Lease Agreements by failing to make all required payments as per the Lease Agreements.

12. In addition to its damages caused by the Tribe's failure to honor the terms of its Lease Agreements, Xerox is entitled to court costs, attorney's fees per the Lease Agreements and pursuant to OKLA. STAT. tit. 12 § 936, contractual pre-judgment interest of 1.5% per month and statutory post-judgment interest.

V. DEMAND FOR RELIEF

WHEREFORE, Xerox Corporation prays that this Court issue judgment as follows and for any and all other relief which this Court deems just and equitable:

- a. That this Court issue a money judgment in favor of Xerox and against the Tribe in the amount of \$101,824.68 for the breaches of the Lease Agreements;
- b. That this Court award Xerox prejudgment interest at a rate of 1.5% per month, post-judgment interest at the statutory rate, costs of the action, a reasonable attorney's fee and such other relief as the Court deems just and proper.

Respectfully submitted,

By: s/ Colin H. Tucker

COLIN H. TUCKER, OBA #16325

NATHAN E. CLARK, OBA #17275

RHODES, HIERONYMUS, JONES,

TUCKER & GABLE, P.L.L.C.

P.O. Box 21100

Tulsa, OK 74121-1100

(918) 582-1173

(918) 592-3390 (facsimile)

ATTORNEYS FOR PLAINTIFF

STATE OF TEXAS)
)
COUNTY OF DALLAS) ss.

VERIFICATION

Charles Corrigan, of lawful age, being first duly sworn, upon oath states that I am a Litigation Specialist with Xerox Capital Services, Inc., that I have read the foregoing Petition, that I am familiar with the matters set forth therein, and that the same are true and accurate.

John Smith 74th 1965 20

Subscribed and sworn before me this 24 day of January 2008, by
Charles Corrigan.

Debra Louise Malone
Notary Public

My Commission expires:

My Commission Number is:

May 26th, 2010

(seal)

